



COLORADO

Division of Reclamation,
Mining and Safety

Department of Natural Resources
1313 Sherman Street, Room 215
Denver, Colorado 80203

October 24, 2016

Randy Schafer
Phillips County
221 S. Interocean Ave.
Holyoke, CO 80734

**RE: Adequacy Review; 110c to 112c Construction Materials Conversion Application;
Rafert Pit; DRMS File No. M-2004-052; Revision No. CN-01**

Dear Mr. Schafer,

The Division of Reclamation, Mining and Safety (Division/DRMS) has reviewed the content of the Phillips County 110c to 112c Permit Conversion Application for the Rafert Pit, File No. M-2004-052, and submits the following comments. **The Division is required to make an approval or denial decision no later than November 7, 2016; therefore, a response to the following adequacy review concerns should be submitted to the Division as soon as possible.** In order to allow adequate time to review your responses to any adequacy issues, please submit your adequacy responses to the Division no later than November 3, 2016. Please respond to this letter with the requested additional/updated information on permit replacement pages and/or exhibits and summarize each response in a cover letter titled "Adequacy Review Response; CN-01; M-2004-052".

The review consisted of comparing the application and the amendment to the application content with specific requirements of Rules 1, 3, 6.1, 6.2, and 6.4 of the Minerals Rules and Regulations of the Colorado Mined Land Reclamation Board for the Extraction of Construction Materials. Any inadequacies are identified under the respective exhibit.

GENERAL

1. As required by Rule 1.6.2(1)(d) and 1.6.5(2), submit proof of publication in a newspaper of general circulation in the locality of the proposed mining operation.
2. As required by Rule 1.6.2(1)(e), submit proof of the notice to all owners of record of surface and mineral rights of the affected land and the owners of record of all land surface within 200 feet of the boundary of the affected land. Proof of notice may be return receipts of a Certified Mailing or by proof of personal service.
3. The Division received comments from the History Colorado, Division of Water Resources, and Colorado Parks and Wildlife. The letters are attached for review. Please acknowledge the letters, address any comments within the letters, and make changes to the application, if necessary.



4. The Division has attached the new Performance Warranty form which is required to be filled out, notarized, and returned prior to permit issuance.

EXHIBIT D - Mining Plan (Rule 6.4.4):

5. The Exhibit D Mining Plan states that the NE and SE boundary corners will not be set until mining efforts finally reach the east end. Rule 3.1.12(2) states that boundaries of the affected area shall be marked by monuments or other markers that are clearly visible and adequate to delineate such boundaries, however, Rule 3.1.12(2)(c) states the Operator can submit an alternative plan for identifying the boundaries of the affected land. Please either commit to marking the boundary of the affected land or submit an alternative plan for the Division to accept.
6. Pursuant to C.R.S. 34-32.5-116(4)(j), please describe how the affected lands will be stabilized and protected as to effectively control erosion. Specifically how will lands in the northwest corner of the site be protected from an erosional head cut similar to the one identified as a part of Violation No. MV-2016-029. The Division is concerned that there is a high chance of erosion reoccurring along the flowline of the intermittent Wildhorse Creek in the Northwest corner of the site because stormwater will be concentrated there and will flow into down into the depression that the operation has created.

EXHIBIT E - Reclamation Plan (Rule 6.4.5):

7. In the Exhibit D Mining Plan, the Applicant states that topsoil outside of the creek bed ranges from 4-5 inches. The original 110c reclamation plan committed to replacing 12 inches on average of topsoil on the affected lands. Please discuss this discrepancy.
8. In accordance with Rule 6.4.5(2)(f)(v), please state the depth of topsoil that will be replaced on the affected lands. Since the Applicant is proposing to return to affected lands to farmland, more soil replacement may be necessary to create productive farmland again.
9. The Applicant states that the access road will remain intact for the landowner. Please submit a signed and notarized statement from the landowner requesting the road to remain after reclamation is completed for their personal use.

EXHIBIT J – Vegetation Information (Rule 6.4.10):

10. Pursuant to Rule 6.4.10(1)(c), please include a narrative of the estimated average annual production for the existing cropland on the proposed affected lands.

EXHIBIT R - Proof of Filing with County Clerk and Recorder (Rule 6.4.18):

11. Please note that any changes or additions to the application on file in our office must also be reflected in the public review copy, which was placed with the local County Clerk and Recorder by the Applicant. Submit proof that the public review copy has been updated with a copy of the response to this adequacy letter.

This concludes the Division's adequacy review of this 110c to 112c Conversion Application. This letter shall not be interpreted to mean that there are no other technical deficiencies in your application. Other issues may arise as additional information is supplied. Be advised that the Conversion Application for the Rafert Pit may be deemed inadequate, and the application may be denied on November 7, 2016, unless the above mentioned adequacy review items are addressed to the satisfaction of the Division. If more time is needed to complete the reply, the Division can grant an extension to the decision date. This will be done upon receipt of a written waiver of the Applicant's right to a decision by November 7, 2016 and the request for a specific amount of additional time. This must be received no later than the deadline date.

Please note, under the Order of Violation No. MV-2016-029, the Operator is required to have all materials in approvable form on or before November 8, 2016.

If you need additional information or have any questions, please contact me at Division of Reclamation, Mining and Safety, 1313 Sherman Street, Room 215, Denver, CO 80203, by telephone at **303-866-3567 x8132**, or by email at elliott.russell@state.co.us.

Sincerely,



Elliott R. Russell
Environmental Protection Specialist

Enclosure: History Colorado Comment Letter
 Division of Water Resources Comment Letter
 Colorado Parks and Wildlife Comment Letter
 Performance Warranty Form M2004052

EC: Wally Erickson; Division of Reclamation, Mining & Safety